

ORIGINAL

OPEN MEETING ITEM



0000094469

COMMISSIONERS  
KRISTIN K. MAYES – Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP



MICHAEL P. KEARNS  
Interim Executive Director

ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

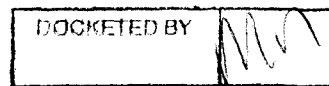
DOCKETED

MAR 11 2009

DATE: MARCH 11, 2009

DOCKET NO: WS-20543A-07-0435

TO ALL PARTIES:



Enclosed please find the recommendation of Administrative Law Judge Yvette B. Kinsey. The recommendation has been filed in the form of an Order on:

DOUBLE DIAMOND UTILITIES, INC.  
(EXTENSION OF TIME DEADLINE  
CONTAINED IN DECISION NO. 70352)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

MARCH 20, 2009

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

MARCH 31, 2009 AND APRIL 1, 2009

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

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INTERIM EXECUTIVE DIRECTOR

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This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail [SABernal@azcc.gov](mailto:SABernal@azcc.gov)

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 KRISTIN K. MAYES, Chairman  
4 GARY PIERCE  
5 PAUL NEWMAN  
6 SANDRA D. KENNEDY  
7 BOB STUMP

8 IN THE MATTER OF THE APPLICATION OF  
9 DOUBLE DIAMOND UTILITIES, INC. FOR A  
10 CERTIFICATE OF CONVENIENCE AND  
11 NECESSITY TO PROVIDE WATER SERVICE  
12 AND WASTEWATER SERVICE.

DOCKET NO. WS-20543A-07-0435

DECISION NO. \_\_\_\_\_

**ORDER EXTENDING TIME**  
**DEADLINE CONTAINED IN**  
**DECISION NO. 70352**

11 Open Meeting  
12 March 31 and April 1, 2009  
13 Phoenix, Arizona

14 **BY THE COMMISSION:**

15 \* \* \* \* \*

16 Having considered the entire record herein and being fully advised in the premises, the  
17 Commission finds, concludes, and orders that:

18 **FINDINGS OF FACT**

19 1. On July 23, 2007, Double Diamond Utilities, Inc. ("DDU" or "Double Diamond")  
20 filed with the Arizona Corporation Commission ("Commission") an application for a Certificate of  
21 Convenience and Necessity ("CC&N") to provide water and wastewater services for a master planned  
22 community known as The Ranch at White Hills ("White Hills") in Mohave County, Arizona.

23 2. On May 16, 2008, the Commission issued Decision No. 70352, which approved  
24 DDU's application for CC&Ns to provide water and wastewater services to White Hills. Decision  
25 No. 70352 required DDU, among other things, to file by December 31, 2008, a performance bond or  
26 irrevocable sight draft letter of credit in the amount of \$500,000 for its water and wastewater CC&Ns,  
27 and to retain a Certified Operator at least six months before it serves its first customer or by June 30,  
28 2009, whichever occurred first.

1           3.       On December 17, 2008, DDU filed a Motion for Extension of Compliance Dates  
2 ("Motion") to file the performance bond or irrevocable sight draft letter of credit and retain a  
3 Certified Operator; DDU's Motion states DDU has complied with all requirements to date, which  
4 includes filing its rate tariff, curtailment tariff, backflow prevention tariff, and Water Conservation  
5 Plan. The Motion further states that due to a downturn in the economy the finance and credit markets  
6 have tightened, which has delayed development at White Hills. DDU's Motion further requests that  
7 DDU be allowed to file the performance bond or irrevocable sight draft letter of credit at least 15  
8 days prior to providing water and wastewater utility service to any customers.

9           4.       Regarding the extension of time to retain a Certified Operator, DDU's Motion states  
10 that due to the downturn in the market, the June 30, 2009, compliance date is premature as  
11 development has been delayed. DDU request that the compliance deadline to obtain a Certified  
12 Operator be extended to six months before it serves its first customer.

13           5.       On January 30, 2009, Staff filed a Memorandum in response to DDU's Motion  
14 ("Response"). According to the Response, Staff is uncomfortable with DDU's request for an open  
15 ended extension of time to comply. Therefore, Staff recommends granting DDU an extension of time  
16 to file its performance bond or irrevocable sight draft letter of credit, until 30 days prior to serving its  
17 first customer or by December 31, 2011, whichever comes first.

18           6.       Staff further recommends that DDU obtain a Certified Operator at least six months  
19 before it serves its first customer or December 31, 2011, whichever comes first.

20           7.       Staff's Response states that although the economy has put a damper on much of the  
21 development in the State, Staff continues to be concerned with development projects being  
22 indefinitely put on hold or never taking place. Staff reasoned that in setting deadlines in requests for  
23 extension of time to comply, the Commission is given an opportunity to re-evaluate the progress  
24 being made in the proposed development.

25           8.       DDU's Motion states the developers fully intend to continue with the development at  
26 White Hills.

27           9.       Staff's recommendations are reasonable and should be adopted.  
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**CONCLUSIONS OF LAW**

1. Double Diamond is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§40-281 and 40-282.
2. The Commission has jurisdiction over Double Diamond and the subject matter to extend the time for compliance as set forth in Commission Decision No. 70352.
3. Staff's recommendation that Double Diamond should receive an extension of time to comply with Decision No. 70352, is reasonable and should be adopted.

**ORDER**

IT IS THEREFORE ORDERED that Double Diamond Utilities, Inc., is hereby granted an extension of time, until 30 days prior to serving its first customer or by December 31, 2011, whichever comes first, to procure and file proof of a performance bond or irrevocable sight draft letter of credit in the amount of \$500,000, as set forth in Commission Decision No. 70352.

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IT IS FURTHER ORDERED that Double Diamond Utilities, Inc., is hereby granted an extension of time, until six months before it serves its first customer or by December 31, 2011, whichever comes first, to retain a Certified Operator for its water and wastewater systems, as set forth in Commission Decision No. 70352.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN \_\_\_\_\_ COMMISSIONER \_\_\_\_\_

COMMISSIONER \_\_\_\_\_ COMMISSIONER \_\_\_\_\_ COMMISSIONER \_\_\_\_\_

IN WITNESS WHEREOF, I, MICHAEL P. KEARNS, Interim Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
MICHAEL P. KEARNS  
INTERIM EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

YBK:db

1 SERVICE LIST FOR: DOUBLE DIAMOND UTILITIES, INC.

2 DOCKET NO. WS-20543A-07-0435

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